ARC 3353C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 12(15)(c), the Department of Human Services amends Chapter 74, "Iowa Health and Wellness Plan," Chapter 75, "Conditions of Eligibility," and Chapter 76, "Enrollment and Reenrollment," Iowa Administrative Code.

These amendments eliminate the three-month retroactive Medicaid coverage benefit provisions for initial applications and applications to add new household members. Pursuant to 2017 Iowa Acts, House File 653, as passed during the 87th Session of the General Assembly, the Department requested a waiver from the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services to eliminate the retroactivity provisions. Upon federal approval, elimination of three-month retroactive eligibility for Medicaid applicants begins on October 1, 2017.

The Council on Human Services adopted these amendments on September 13, 2017.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because emergency rule making is authorized by 2017 Iowa Acts, House File 653, section 12(15)(c).

Pursuant to Iowa Code section 17A.5(2)"b"(1)(a), the Department also finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective October 1, 2017, because 2017 Iowa Acts, House File 653, section 12(15)(c), authorizes the Department to adopt emergency rules to implement this cost-containment strategy.

These amendments are also published herein under Notice of Intended Action as **ARC 3355C** to allow for public comment.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, it was determined that Medicaid providers may experience financial loss due to nonpayment of unpaid medical bills incurred in the three months prior to a Medicaid applicant's filing of an application.

The Administrative Rules Review Committee reviewed these amendments on September 12, 2017.

These amendments are intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 12(15)(a)(7).

These amendments became effective October 1, 2017.

The following amendments are adopted.

ITEM 1. Rescind subrule **74.5(2)**.

ITEM 2. Renumber subrules **74.5(3)** and **74.5(4)** as **74.5(2)** and **74.5(3)**.

ITEM 3. Rescind subparagraph **75.1(35)"d"(5)**.

ITEM 4. Amend paragraph **75.1(35)"e"** as follows:

e. Medically needy income level (MNIL).

(1) and (2) No change.

(3) The MNIL for the certification period shall be determined by adding both months' MNIL to arrive at a total.

~~The MNIL for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.~~

(4) No change.

(5) Effective date of approval. Eligibility during the certification period ~~or the retroactive certification period~~ shall be effective as of the first day of the first month of the certification period ~~or the retroactive certification period~~ when the medically needy income level (MNIL) is met.

ITEM 5. Amend subparagraph **75.1(35)"g"(1)** as follows:

(1) Medical expenses that are incurred during the certification period may be used to meet spenddown. Medical expenses incurred prior to a certification period shall be used to meet spenddown if not already used to meet spenddown in a previous certification period and if all of the following requirements are met. The expenses:

1. Remain unpaid as of the first day of the certification period.

2. Are not Medicaid-payable in a previous certification period ~~or the retroactive certification period~~.

3. Are not incurred during any prior certification period ~~with the exception of the retroactive period in which the person was conditionally eligible but did not meet spenddown~~.

~~Notwithstanding numbered paragraphs "1" through "3" above, paid medical expenses from the retroactive period can be used to meet spenddown in the retroactive period or in the certification period for the two months immediately following the retroactive period.~~

ITEM 6. Rescind subparagraph **75.11(2)"c"(3)**.

ITEM 7. Rescind paragraph **75.19(1)"d."**

ITEM 8. Reletter paragraph **75.19(1)"e"** as paragraph **75.19(1)"d."**

ITEM 9. Amend rule **441—75.25(249A)**, definition of "Incurred medical expenses," as follows:

"Incurred medical expenses" for medically needy shall mean (1) medical bills paid by a client, responsible relative, or state or political subdivision program other than Medicaid during the ~~retroactive certification period or~~ certification period, or (2) unpaid medical expenses for which the client or responsible relative remains obligated.

ITEM 10. Rescind the definitions of "Retroactive certification period" and "Retroactive period" in rule **441—75.25(249A)**.

ITEM 11. Rescind subrule **76.4(5)**.

ITEM 12. Renumber subrule **76.4(6)** as **76.4(5)**.

ITEM 13. Rescind subrule **76.13(2)**.

ITEM 14. Amend subrule 76.13(3) as follows:

~~**76.13(3)**~~ **76.13(2)** *Certification for services.* The department shall issue a Medical Assistance Eligibility Card, Form 470-1911, to persons who have been determined to be eligible for the benefits provided under the Medicaid program, with the following exceptions:

a. Presumptive eligibility. A person who has been determined only presumptively eligible will be issued a Presumptive Medicaid Eligibility Notice of Action, Form 470-2580 or 470-2580(S), ~~that~~ which will include certification information.

b. Emergency Medicaid for aliens. An individual who is eligible only for limited emergency Medicaid for aliens pursuant to 441—subrule 75.11(4) will be issued a Notice of Action, Form 470-0485 or Form 470-0485(S), ~~that~~ which will include certification information.

ITEM 15. Rescind subparagraph **76.14(2)"b"(4)** and adopt the following **new** subparagraph in lieu thereof:

(4) Reconsideration period.

1. For all coverage groups, except those specified in numbered paragraph "2" below, the eligibility of an individual who is terminated for failure to submit the applicable review form or necessary information shall be reconsidered in a timely manner and without requiring an application if the individual subsequently submits the review form within 90 days after the effective date of termination. If the ninetieth calendar day falls on a weekend or state holiday, the member shall have until the next business day to provide the review form. The eligibility effective date shall go back to the first day of the first month of ineligibility only if all other eligibility criteria are met for that month. Eligibility for subsequent months within the reconsideration period can still be determined even if the

applicant remains ineligible for the initial reconsideration month(s), but eligibility shall not be granted any earlier than the month in which all eligibility criteria are met.

2. For qualified Medicare beneficiaries (QMBs), the home- and community-based services (HCBS) waiver groups, and the program for all-inclusive care for the elderly (PACE), the provisions in numbered paragraph "1" above shall apply except that the form shall be acted upon and treated like an application. The eligibility effective dates shall also follow rule 441—76.13(249A) for these specified groups.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/17.